

United States Bankruptcy Court District of Wyoming

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Cheyenne, WY 82001
(307) 433-2200

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Casper, WY 82601
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www.wyb.uscourts.gov

Guide for Pro Se Filers



The Bankruptcy Clerk's Office is prohibited by 28 U.S.C. Section 955 from giving legal advice or assisting with the preparation of forms.

Except as permitted by law, debtors, all parties in interest, or employees of a party in interest shall refrain from ex parte meetings and communications with the judge/court concerning matters affecting a particular case or proceeding per Federal Rule of Bankruptcy Procedure 9003(a).

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Preface

The laws, codes and rules governing bankruptcy procedures are complicated and intricate in detail. This guide is not intended to serve as a “how to” manual, nor is it intended to advise debtors of their legal rights or responsibilities under bankruptcy. The purpose of this guide is simply to shed light on some common misconceptions and answer frequently asked questions posed to the Clerk by debtors filing bankruptcy without the assistance of legal counsel (Pro Se). A Pro Se Debtor is responsible for all proceedings of their case.

UNITED STATES BANKRUPTCY COURT NOTICE TO INDIVIDUAL CONSUMER DEBTOR UNDER § 342(b) OF THE BANKRUPTCY CODE (Form B201)

In accordance with § 342(b) of the Bankruptcy Code, this notice: (1) Describes briefly the services available from credit counseling services; (2) Describes briefly the purposes, benefits and costs of the four types of bankruptcy proceedings that may be commenced; and (3) Informs the debtor about bankruptcy crimes and notifies that the Attorney General may examine all information supplied in connection with a bankruptcy case. Debtor(s) are cautioned that bankruptcy law is complicated and not easily described. Thus, debtor(s) may wish to seek the advice of an attorney to learn of rights and responsibilities should they decide to file a petition. Court employees cannot give legal advice.

1. Services Available from Credit Counseling Agencies

With limited exceptions, § 109(h) of the Bankruptcy Code requires that all individual debtors who file for bankruptcy relief on or after October 17, 2005, receive a briefing that outlines the available opportunities for credit counseling and provides assistance in performing a budget analysis. The briefing must be given within 180 days before the bankruptcy filing. The briefing may be provided individually or in a group (including briefings conducted by telephone or on the Internet) and must be provided by a nonprofit budget and credit counseling agency approved by the United States trustee or bankruptcy administrator. The Clerk of the bankruptcy court has a list that may be consulted of the approved budget and credit counseling agencies.

In addition, after filing a bankruptcy case, an individual debtor generally must complete a financial management instructional course before they can receive a discharge. The Clerk also has a list of approved financial management instructional courses.

2. The Four Chapters of the Bankruptcy Code Available to Individual Consumer Debtors

Chapter 7: Liquidation

- A. Chapter 7 is designed for debtors in financial difficulty that do not have the ability to pay their existing debts. Debtors whose debts are primarily consumer debts are subject to a “means test” designed to determine whether the case should be permitted to proceed under chapter 7. If income is greater than the median income for the state of residence and family size, in some cases, creditors have the right to file a motion requesting that the court dismiss the case under § 707(b) of the Code. It is up to the court to decide whether the case should be dismissed.

- B. Under chapter 7, debtors may claim certain property as exempt under governing law. A trustee may have the right to take possession of and sell the remaining property that is not exempt and use the sale proceeds to pay creditors.
- C. The purpose of filing a chapter 7 case is to obtain a discharge of existing debts. If, however, debtors are found to have committed certain kinds of improper conduct described in the Bankruptcy Code, the court may deny discharge and, if it does, the purpose for which the bankruptcy petition was filed will be defeated.
- D. Even if the debtor receives a general discharge, some particular debts are not discharged under the law. Therefore, they may still be responsible for most taxes and student loans; debts incurred to pay non-dischargeable taxes; domestic support and property settlement obligations; most fines, penalties, forfeitures, and criminal restitution obligations; certain debts which are not properly listed in the bankruptcy papers; and debts for death or personal injury caused by operating a motor vehicle, vessel, or aircraft while intoxicated from alcohol or drugs. Also, if a creditor can prove that a debt arose from fraud, breach of fiduciary duty, or theft, or from a willful and malicious injury, the bankruptcy court may determine that the debt is not discharged.

Chapter 13: Repayment of All or Part of the Debts of an Individual with Regular Income

- A. Chapter 13 is designed for individuals with regular income who would like to pay all or part of their debts in installments over a period of time. Debtors are only eligible for chapter 13 if their debts do not exceed certain dollar amounts set forth in the Bankruptcy Code.
- B. Under chapter 13, debtors must file with the court a plan to repay creditors all or part of the money that is owed them, using future earnings. The period allowed by the court to repay debts may be three years or five years, depending upon income and other factors. The court must approve the plan before it can take effect.
- C. After completing the payments under the plan, debts are generally discharged except for domestic support obligations; most student loans; certain taxes; most criminal fines and restitution obligations; certain debts which are not properly listed in bankruptcy papers; certain debts for acts that caused death or personal injury; and certain long term secured obligations.

Chapter 11: Reorganization

Chapter 11 is designed for the reorganization of a business but is also available to consumer debtors. Its provisions are quite complicated, and any decision by an individual to file a chapter 11 petition should be reviewed with an attorney.

Chapter 12: Family Farmer or Fisherman

Chapter 12 is designed to permit family farmers and fishermen to repay their debts over a period of time from future earnings and is similar to chapter 13. The eligibility requirements are restrictive, limiting its use to those whose income arises primarily from a family-owned farm or commercial fishing operation.

3. Bankruptcy Crimes and Availability of Bankruptcy Papers to Law Enforcement Officials

A person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury, either orally or in writing, in connection with a bankruptcy case is subject to a fine, imprisonment, or both. All information supplied by a debtor in connection with a bankruptcy case is subject to examination by the Attorney General acting through the Office of the United States Trustee, the Office of the United States Attorney, and other components and employees of the Department of Justice.

WARNING: § 521(a)(1) of the Bankruptcy Code requires that debtors promptly file detailed information regarding creditors, assets, liabilities, income, expenses and general financial condition. Bankruptcy case may be dismissed if this information is not filed with the court within the time deadlines set by the Bankruptcy Code, the Bankruptcy Rules, and the local rules of the court.

Statement of Information Prepared by the U.S. Trustee

BANKRUPTCY LAW IS A FEDERAL LAW. THIS SHEET GIVES YOU SOME GENERAL INFORMATION ABOUT WHAT HAPPENS IN A BANKRUPTCY CASE. THE INFORMATION HERE IS NOT COMPLETE. YOU MAY NEED LEGAL ADVICE.

When You File Bankruptcy

You can choose the kind of bankruptcy that best meets your needs:

Chapter 7 - A trustee is appointed to take over your property. Any property of value will be sold or turned into money to pay your creditors. You may be able to keep some personal items and possibly real estate depending on the law of the state where you live.

Chapter 13 - You can usually keep your property, but you must earn wages or have some other source of regular income and you must agree to pay part of your income to your creditors. The Court must approve your repayment plan and your budget. A trustee is appointed and will collect the payments from you, pay your creditors, and make sure you live up to the terms of your repayment plan.

Chapter 12 - Like chapter 13, but it is only for family farmers.

Chapter 11 - This is used mostly by businesses. In chapter 11, you may continue to operate your business, but your creditors and the Court must approve a plan to repay your debts. There is no trustee unless the Judge decides that one is necessary; if a trustee is appointed, the trustee takes control of your business and property.

If you have already filed bankruptcy under chapter 7, you may be able to change your case to another chapter.

Your bankruptcy may be reported on your credit record for as long as ten years. It can affect your ability to receive credit in the future.

What Is A Bankruptcy Discharge and How Does It Operate?

One of the reasons people file bankruptcy is to get a "discharge." A discharge is a Court order which states that you do not have to pay most of your debts. Some debts cannot be discharged. For example, you cannot discharge debts for --

- most taxes;
- child support;
- alimony;
- most student loans;
- Court fines and criminal restitution; and
- personal injury caused by driving drunk or under the influence of drugs.

The discharge only applies to debts that arose before the date you filed. Also, if the Judge finds that you received money or property by fraud, that debt may not be discharged.

It is important to list all your property and debts in your bankruptcy schedules. If you do not list a debt, for example, it is possible the debt will not be discharged.

The Judge can also deny your discharge if you do something dishonest in connection with your bankruptcy case, such as destroy or hide property, falsify records, or lie, or if you disobey a Court order.

You can only receive a chapter 7 discharge once every eight years. No one can make you pay a debt that has been discharged, but you can voluntarily pay any debt you wish to pay. You do not have to sign a reaffirmation agreement or any other kind of document to do this.

Some creditors hold a secured claim (for example, the bank that holds the mortgage on your house or the loan company that has a lien on your car). You do not have to pay a secured claim if the debt is discharged, but the creditor can still take the property.

What is a Reaffirmation Agreement?

Even if a debt can be discharged, you may have special reasons why you want to promise to pay it. For example, you may want to work out a plan with the bank to keep your car. To promise to pay that debt, you must sign and file a reaffirmation agreement with the Court. Reaffirmation agreements are under special rules and are voluntary. They are not required by bankruptcy law or by any other law. Reaffirmation agreements --

- must be voluntary;
- must not place too heavy a burden on you or your family;
- must be in your best interest; and
- can be canceled anytime before the Court issues your discharge or within 60 days after the agreement is filed with the Court, whichever gives you the most time.

If you are an individual and you are not represented by an attorney, the Court must hold a hearing to decide whether to approve the reaffirmation agreement. The agreement will not be legally binding until the Court approves it.

If you reaffirm a debt and then fail to pay it, you owe the debt the same as though there was no bankruptcy. The debt will not be discharged and the creditor can take action to recover any property on which it has a lien or mortgage. The creditor can also take legal action to recover a judgment against you.

IF YOU WANT MORE INFORMATION OR HAVE QUESTIONS ABOUT HOW THE BANKRUPTCY LAWS AFFECT YOU, YOU MAY NEED LEGAL ADVICE.

THE TRUSTEE IN YOUR CASE IS NOT RESPONSIBLE FOR GIVING YOU LEGAL ADVICE.

Protecting Your Social Security Number

Individuals filing bankruptcy will place only the last four digits of their Social Security Number on the bankruptcy petition. Individual debtors are required to submit, with the bankruptcy petition, a separate Statement of Social Security Number(s) (Form 21). This form will include the full Social Security Number of the debtor(s). The Statement of Social Security Number(s) is not part of the public record and will not be available to the public. Official Form 21 is available on-line at:

www.uscourts.gov/bkforms/bankruptcy_forms.html#official

The responsibility for redacting personal identifiers rests solely with counsel and the parties. The Clerk will not review each document for compliance with this rule.

The Fair Credit Reporting Act

The Fair Credit Reporting Act, 6 U.S.C. § 605, is the law that controls credit reporting agencies. The law states that in most cases, a consumer reporting agency may not report negative information that is more than seven years old, or bankruptcies that are more than 10 years old.

Debtors may want to contact the Federal Trade Commission, Bureau of Consumer Protection, Education Division, Washington, D.C. 20580, <http://www.ftc.gov/bcp/menu-credit.htm> or telephone them at (202) 326-2222 and request the publications "How to Dispute Credit Reporting Errors" and "Fair Credit Reporting."

Credit Ratings & Reports

The U.S. Bankruptcy Court clerk's office is not responsible for credit reports. Bankruptcy records are public records and the information contained in them can be retrieved by anyone. Any disputes with a credit agency must be resolved by the debtors and that agency.

The three Credit Reporting Agencies are:

Experian
Profile Maintenance
P.O. Box 9558
Allen, TX 75013

Equifax
P.O. Box 740241
Atlanta, GA 30374

Trans Union Corporation
Attn: Public Records Dept.
555 West Adams St.
Chicago, IL 60661

Filing Requirements for a Complete Bankruptcy Petition

Local Bankruptcy Rule 1002-1 provides that the following items are required in order for the bankruptcy clerk's office to open a new bankruptcy. Failure to submit certain filing requirements will result in a 15-day deficiency notice with notice of intent to dismiss the bankruptcy case.

Chapter 7: At the time of filing

1. Fee, Application to Pay in Installments (Official Form 3A), or Application for Waiver of Chapter 7 Filing Fee (Official Form 3B) if applicable
2. The first 3 pages of the Voluntary Petition (Official Form 1) including original signatures, last 4 digits of the debtor's Social Security Number, and/or a federal employer identification number
3. Completed Statement of Social Security Number (Official Form 21) (individual debtor(s) only)
4. A list of creditors and their addresses
5. A list of assets and their location

At the time of filing or within 15 days:

6. Debtor's Statement of Compliance with Credit Counseling Requirement (Exhibit D to Official Form 1)
7. Signatures of Bankruptcy Petition Preparers, along with Social Security Number if applicable
8. Schedules A-J (Official Forms 6 A-J)
9. Summary of Schedules (Official Form 6, Schedules of Assets and Liabilities)
10. Statistical Summary of Certain Liabilities and Related Data (Official Form 6, Statistical Summary)
11. Declaration Concerning Debtor's Schedules (Official Form 6, Declaration)
12. Statement of Financial Affairs with signatures (Official Form 7)
13. Notice to Individual Consumer Debtor (Official Form 201)
14. Attorney or Bankruptcy Petition Preparer Disclosure (Official Form 203 **OR** Forms 19A and 19B)
15. Statement of Current Monthly Income & Means Test Calculation (Official Form 22A)
16. Certificate of Completion of Credit Counseling from a U.S. Trustee approved agency (individual debtor(s) only)
17. Employee Income Record (individual debtor(s) only) - Debtor(s) pay stubs from any income earned from an employer in the 60 days prior to filing)
18. Creditor Mailing List (see Creditor Mailing Matrix requirements)

Within 30 days of filing the petition or before the 341 Meeting of Creditors, whichever is earlier, the Chapter 7 Individual Debtor's Statement of Intention (Official Form 8) regarding secured consumer debts must be filed with the court and served on all creditors and the case trustee.

Chapters 12 and 13: At the time of filing

1. Fee or Application to Pay in Installments (Chapter 13) (Official Form 3A)
2. The first 3 pages of the Voluntary Petition (Official Form 1) including original signatures, last 4 digits of the debtor's Social Security Number, and/or a federal employer identification number
3. Completed Statement of Social Security Number (Official Form 21) (individual debtor(s) only)
4. A list of creditors and their addresses
5. A list of assets and their location

At the time of filing or within 15 days:

6. Debtor's Statement of Compliance with Credit Counseling Requirement (Exhibit D to Official Form 1)
7. Signatures of Bankruptcy Petition Preparers, along with Social Security Number if applicable
8. Schedules A-J (Official Forms 6A-J)
9. Summary of Schedules (Official Form 6, Schedules of Assets and Liabilities)
10. Statistical Summary of Certain Liabilities and Related Data (Official Form 6, Statistical Summary)
11. Declaration Concerning Debtor's Schedules (Official Form 6, Declaration)
12. Statement of Financial Affairs with signatures (Official Form 7)
13. Notice to Individual Consumer Debtor (Official Form 201)
14. Attorney or Bankruptcy Petition Preparer Disclosure (Official Form 203 **OR** Forms 19A and 19B)
15. Statement of Current Monthly Income & Means Test Calculation (Official Form 22C)
16. Certificate of Completion of Credit Counseling from a U.S. Trustee approved agency (individual debtor(s) only)
17. Employee Income Record (individual debtor(s) only) - Debtor(s) pay stubs from any income earned from an employer in the 60 days prior to filing
18. Creditor Mailing List (see Creditor Mailing Matrix requirements)
19. Chapter 12 or 13 Plan. (templates can be found in our Local Rules)

Places of Filing

U.S. Bankruptcy Clerk's office
2120 Capitol Ave. Suite 6004
Cheyenne, WY 82001

U.S. Bankruptcy Clerk's office
111 S. Wolcott Ave.
Casper, WY 82601

Number of Copies of Petitions, Statements, Schedules, and Lists

In a case filed under chapter 7, 9, 11, 12, 13 or 15, an original of the petition, lists, schedules and statements must be filed with the clerk's office. Include a complete copy and a self-addressed stamped envelope to receive a file stamped copy from the Court.

Retaining Your Records

It is advisable that debtors keep copies of the petition, schedules, Order of Discharge, and if applicable, an Order of Dismissal. If additional copies are required, they may be obtained from the Court for a fee.

Additional Responsibilities of the Pro Se Debtor

- Both debtors and joint debtors are required to sign and submit all requested forms. Additionally, Employee Income Records (pay stubs) must be received from both debtor and joint debtor. If debtor or joint debtor were unemployed and cannot submit pay stubs from the last 60 days, please submit a *Declaration Regarding Payment Advice* to satisfy this requirement. This form can be found on the court's website www.wyb.uscourts.gov in the Forms menu, or at the clerk's office.
- The Code requires the chapter 7 or 13 debtor(s) attend a meeting of creditors which is held 20-60 days after filing. At this meeting, the debtor and joint debtor are under oath while both the trustee and creditors have the opportunity to ask the debtor and joint debtor questions. The debtor and joint debtor are required to answer questions regarding their financial affairs and property. Debtor(s) must also provide any financial records or documents that the trustee requests.
- While not considered a deficiency at the time the petition is filed, the following document must be received by the court in order for the debtor(s) to receive a discharge of their debts. An individual debtor in a chapter 7 or chapter 13 case shall file a statement regarding completion of a course in personal financial management (Debtor Education Course), prepared as prescribed by the appropriate Official Form (Form B23). **This requirement is not satisfied by the credit counseling certificate provided with the original petition.** Form B23, Debtor's Certification of Completion of Instructional Course Concerning Financial Management shall be filed in the **45 days** after the first date set for the meeting of creditors in a chapter 7 case. In a chapter 13 case, debtor has until the date of the last scheduled plan payment to file Form B23.

Debtor Payment Options

Bankruptcy Rule 1006 states that “every petition shall be accompanied by the filing fee except as provided in subdivisions (b) and (c).” Rule 1006 also defines a debtor’s options regarding payment to the court of the required filing fees. Generally speaking, there are three (3) payment options.

Option 1: **Payment in full**

The debtor makes payment in the full amount of the filing fee at the time of filing.

Option 2: **Payment in installments (Chapter 7, Chapter 13)**

The debtor may file an Application to Pay Filing Fee in Installments with the court. This application must accompany the petition and state that the debtor is unable to pay the filing fee, except in installments. (Form B3A)

*****NOTE***** All installments must be paid in full to the court before the debtor can receive a discharge or chapter 13 Trustee may make further payments to attorneys or any other person(s) rendering services in the pending bankruptcy.

Option 3: **Fee is waived (Chapter 7)**

The debtor may file an application requesting a waiver of the filing fee, also known as filing In Forma Pauperis. (Form B3B) If the debtor can demonstrate that their income is less than 150% of the official poverty line the courts may allow for the filing fee to be waived.

Forms of Payment

Local Bankruptcy Rule 5081-1 provides that the clerk’s office will only accept payment in the form of a cashier’s check, money order, certified check, or cash from a debtor. The clerk’s office cannot accept credit cards or personal checks from debtors.

Notice of Commencement of Bankruptcy Case

A Notice of Case Commencement (Form B9) will be served by the court to the debtor, all parties listed on the creditor mailing list, case trustee, and U.S. Trustee. Because service may take a few days, if necessary, a form is available from the clerk's office to serve immediately on creditors who may be ready to take steps against the debtor's property. It is important to notify creditors immediately when the petition is filed to take advantage of the automatic stay; for example, if a utility provider has threatened to terminate service. A utility provider cannot terminate service even if they are listed as a creditor, but the utility can insist upon a new, reasonable deposit for future services.

The Automatic Stay

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If a creditor attempts to collect a debt or take other action in violation of the Bankruptcy Code, they may be penalized. Consult a lawyer to determine your rights.

Role of the Bankruptcy Judge and Trustee

A bankruptcy judge may decide any matter connected with a bankruptcy case, such as eligibility to file or whether a debtor should receive a discharge; however, much of the bankruptcy process is administrative. In cases under chapter 7 or 13, this administrative process is carried out by a case trustee appointed by the United States Trustee, to oversee the case.

A debtor's involvement with a bankruptcy judge is usually very limited. Typically, the chapter 7 debtor will not appear in court and will not see the bankruptcy judge. A chapter 13 debtor may only have to appear before the bankruptcy judge at a hearing confirming the debtor's plan to pay the debts owed to their creditors.

Except as permitted by law, debtors, all parties in interest, or employees of a party in interest shall refrain from ex parte meetings and communications with the judge/court concerning matters affecting a particular case or proceeding per Federal Rules of Bankruptcy Procedure 9003(a).

Creating a Creditor Mailing List (Matrix)

- ◆ The mailing list/matrix is a list of the names and addresses of creditors and parties in interest in a bankruptcy case. This information is used for noticing and also for claims information when applicable. The debtor is responsible for providing complete information on the matrix.
- ◆ The mailing lists may be submitted to the clerk's office in electronic format (diskette or CD) in Plain Text Format (.txt). Please do not save as Rich Text Format. The mailing list may also be submitted in written format, preferably type written. **Note:** Per Local Rule 1007-2, "Except for Pro Se Debtors, all mailing lists must be submitted to the clerk's office in electronic format (diskette or CD)."
- ◆ Per Local Rule 1007-2, the clerk's office will not compare the names and addresses of the creditors listed in the schedules with the names and addresses shown on the master list or any amendment.

Prepare matrix as follows:

- Use one single column per page.
- Names and addresses should be left justified so they are flush against the left margin, with no leading blanks.
- The name and address of each creditor shall not be more than five (5) lines.
- Each line may contain no more than 40 characters including blank spaces.
- Do not include the name and address of the debtor or the debtor's attorney to the list as they will be added by the court.
- If the debtor is a corporation or partnership, the debtor must include the names and addresses of all corporate officers or general partners on the matrix.
- Use upper and lower case. Not all caps.
- Avoid abbreviations unless it is part of the company's name as listed on the petition.
- Special characters such as @#\$%^&*()_+? are not permitted.
- Do not use periods at the end of words or lines.
- "Attention" lines listed on the second line if applicable.
- For security reasons, please do not include account numbers with creditor information.
- Do not include amounts owed.
- City, state and zip code must be on one (1) line.
- City, state, and zip code must be on the last line of the address.
- Nine digit Zip Codes typed with a hyphen separating the two groups of digits.
- All states must be two-letter abbreviations.

- Individual creditors separated by at least one blank line.
- Do not include page titles, page numbers, headers, footers, etc.
- A “Verification of Creditor Matrix” form may be prepared and filed as a cover sheet to the Creditor Matrix.
- A supplemental or amended creditor(s) matrix shall include **only** new creditors(s) not **previously submitted**. Do not include creditor(s) submitted on a previous diskette. Refer to L.B.R. 1009-1(a) for additional information on amending the Creditor Mailing Address Matrix
- If the debtors wish to change the address of a creditor already submitted, file a written notice indicating a **Change of Address** and **do not** file an amended matrix.

Sample Creditor Matrix:

John Smith's Grocery
111 S. Wolcott
Casper, WY 82601

Mark's Diner
111 S. Wolcott
Casper, WY 82601

First Interstate Bank
P.O. Box 110
Casper, WY 82601

Creating the creditor mailing list using a PC:

1. Create or open a creditor list using a word processor program.
2. Enter all names and addresses of creditors in lower and upper case.
3. Save the document by clicking on **File** on the word processor menu bar at the top of the page.
4. Select **Save As** in the drop down.
5. Browse for the folder where the document will be saved.
6. Name the matrix using the last name of the debtor, i.e. Smith Matrix.
7. Before saving, click on the drop down arrow next to file type.
8. If saving the document in Word Perfect select **ASCII text**.
9. If saving the document in Microsoft Word click the **Save As Type** drop down and select **Regular Text (.txt)**.
10. Press the **Save** button.

Appendix A:

Frequently Asked Questions**Filing for Bankruptcy Protection****▶ Do I need to keep all of the paperwork sent to me by the Court?**

All documents regarding the bankruptcy case should be kept for future reference.

▶ Where are the forms to file bankruptcy available?

The District of Wyoming has opted to provide a “Forms” link on the court’s web site to allow downloading and printing of the most commonly used forms. Forms may be located at: <http://www.uscourts.gov/bankform/index.html> or purchased at some office supply stores.

▶ Will filing a bankruptcy stop creditors from calling?

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor’s property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If a creditor attempts to collect a debt or take other action in violation of the Bankruptcy Code, they may be penalized. Consult a lawyer to determine your rights.

▶ What happens when a bankruptcy petition is filed and what is an “estate”?

The commencement of a bankruptcy case creates an “estate.” The estate technically becomes the temporary legal owner of all of the Debtor’s property. The estate consists of all legal or equitable interests of the Debtor in property as of the date the case is filed, including property owned or held by another person if the Debtor has an interest in the property. The “automatic stay” is immediately invoked at the instant of the filing of the bankruptcy case, and it prohibits creditors from taking collection action against the Debtor or the Debtor’s property without Bankruptcy Court approval. The Court issues a notice of commencement advising all interested parties of the filing of the bankruptcy case. This notice provides the case number, trustee information, date of the meeting of creditors, deadline to file a proof of claim (if applicable), and deadline to file an objection to the discharge (if applicable).

▶ Is an attorney required to file bankruptcy?

Each Debtor filing an individual bankruptcy has a right to represent him or herself (Pro Se Debtor); however, the use of an attorney is recommended. By law, a Corporation is required to have an attorney. Note: Individuals who choose to represent themselves will not be able to obtain legal advice from court personnel or from the Trustee appointed to their case.

▶ Can employees of the clerk’s office assist in completing the forms?

28 U.S.C. § 955 prohibits the staff of the Clerk’s office from giving legal advice or assisting with the preparation of the forms.

▶ Can a “Petition Preparer” or paralegal prepare the forms for filing?

When filing bankruptcy without the benefit of counsel or use a document preparation service, be aware that a “bankruptcy petition preparer,” as defined in 11 U.S.C. § 110, is subject to strict regulations which include requirements that the preparer sign any papers prepared on behalf of the debtor, include identification of the individuals who prepared the papers and furnish the debtor with a copy of the documents prepared.

Bankruptcy preparers must provide debtors with the “Notice to Debtor by Non-Attorney Bankruptcy Petition Preparer” (Form B19B) stating that they are not an attorney, that they may

not practice law or give any legal advice.

▶ **How many copies of the petition are required when filing for bankruptcy?**

In a case filed under chapter 7, 9, 11, 12, or 13, an original of the petition, lists, schedules and statements must be filed with the Clerk's office. If mailing the petition to the court for filing and would like a copy returned, please supply a copy of the petition and a self addressed stamped envelope.

▶ **Can filing fees be paid by check? What about with a credit card?**

The only acceptable forms of payment for filing fees, or any fees payable to the court are money orders, cashier checks or cash.

▶ **What if filers can't afford to pay the full filing fee at this time?**

Bankruptcy Rule 1006 states that "every petition shall be accompanied by the filing fee except as provided in subdivisions (b) and (c)." Rule 1006 also defines a debtor's options regarding payment to the court of the required filing fees. Generally speaking, there are three (3) payment options.

Option 1: Payment in full

The debtor makes payment in the full amount of the filing fee at the time of filing.

Option 2: Payment in installments (Chapter 7, Chapter 13)

The debtor may file an Application to Pay Filing Fee in Installments with the court. This application must accompany the petition and state that the debtor is unable to pay the filing fee, except in installments. (Form B3A)

All installments must be paid in full to the court before the debtor can receive a discharge or chapter 13 Trustee may make further payments to attorneys or any other person(s) rendering services in the pending bankruptcy.

Option 3: Fee is waived (Chapter 7)

The debtor may file an application requesting a waiver of the filing fee, also known as filing In Forma Pauperis. (Form B3B) If the debtor can demonstrate that their income is less than 150% of the official poverty line the courts may allow for the filing fee to be waived.

▶ **What if the debtors have been unemployed for over 60 days and cannot provide pay stubs?**

Employee Income Records (pay stubs) must be received from both debtor and joint debtor. If the debtor or joint debtor were unemployed and cannot submit pay stubs from the last 60 days, please submit a *Declaration Regarding Payment Advice* to satisfy this requirement. This form can be found on the court's website (www.wyb.uscourts.gov) in the Forms menu, or at the Clerk's office.

▶ **What happens at a Meeting of Creditors?**

This meeting is also referred to as the 341 meeting. All creditors are notified so that they may attend, but their attendance is not required. Debtors must be present to be questioned under oath by the trustee and creditors. This meeting is presided over by the trustee assigned to the case and is held 20-60 days after the petition is filed. Debtors are required to provide photo identification and proof of social security number to the assigned trustee. A Debtor's failure to appear may result in dismissal of the case.

▶ **What if debtors cannot attend on the date the meeting of creditors is scheduled?**

If a person has filed a case and would like to change the time or date of the first meeting previously set by the court, the debtor should call the trustee at the number which is stated on the Notice of Chapter 7 Bankruptcy Case, Meeting of Creditors, & Deadlines. The trustee may be willing to reschedule the creditor's meeting for a new time and date. If there is sufficient time, the trustee may require the debtor to mail a Notice of Change Regarding Creditors' Meeting to each of the creditors listed on the mailing matrix and then file a certificate of service with the court.

▶ **What does it mean when a case is dismissed?**

A dismissal order ends the case. The dismissal order removes the automatic stay that prevented a creditor from collecting on a debt or taking other actions against the debtor and the debtor's property. A case may be dismissed when the debtor fails to do something, such as, appear at the meeting of creditors, file required documents, pay the filing fee, cooperate with the trustee, or when the dismissal is in the best interest of creditors.

▶ **Do copies of the petition need to be sent to anyone else?**

The District of Wyoming does not require sending a copy of the bankruptcy petition to anyone.

▶ **How do debtors change or correct information in the petition, schedules and statements that have already been filed with the Clerk's office?**

The information contained in the petition, schedules and statement of affairs is submitted under penalty of perjury. Therefore, be certain that it is correct when signing these documents. If, however, it is discovered that something is inaccurate, the documents may be corrected by the filing of an amendment with the Clerk's office.

▶ **How is it determined if a debt is secured, unsecured, priority or administrative?**

Generally, the following definitions will apply, but if questions should arise about the classification of any debts, competent legal advice should be sought.

Secured debt - A debt that is backed by real or personal property is a "secured" debt. A creditor whose debt is "secured" has a legal right to take the property as full or partial satisfaction of the debt. For example, most homes are burdened by a "secured debt". This means that the lender has the right to take the home if the borrower fails to make payments on the loan. Most people who buy new cars give the lender a "security interest" in the car. This means that the debt is a "secured debt" and that the lender can take the car if the borrower fails to make payments on the car loan.

Unsecured Debt - If you simply promise to pay someone a sum of money at a particular time, and you have not pledged any real or personal property to collateralize the debt, the debt is unsecured. For example, most debts for services and some credit card debts are "unsecured".

Priority Debt - A debt entitled to priority payment ahead of most other debts in a bankruptcy case is a "priority" debt. A listing of priority debts is given, in general terms, in § 507 of the Bankruptcy Code. Examples of priority debts are some taxes, wage claims of employees, debts related to goods and services provided to a debtor's estate during a pending bankruptcy case, and domestic support obligations. If you have questions deciding which of your debts are entitled to priority status, you should consult an attorney.

Administrative Debt - This is also a priority debt and is one created when someone provides goods or services to your bankruptcy estate. The best example of an administrative debt is the fees generated by attorneys and other professionals whose employment has been authorized by the court to represent the bankruptcy estate.

- ▶ **Can the Bankruptcy Clerk's staff recommend or offer names of bankruptcy attorneys?**
We cannot recommend or offer names of bankruptcy attorneys. We suggest contacting the Wyoming State Bar for a list of practicing bankruptcy attorneys or consult a local phone book.
- ▶ **Which creditors should be listed on the petition?**
All debts, creditors, and property must be listed.
- ▶ **If a case is dismissed, or a debtor changes their mind about filing, will the filing fee be refunded?**
By statute, filing fees cannot be refunded.
- ▶ **When does the automatic stay take effect?**
The automatic stay takes effect when the clerk's office receives and files the petition.
- ▶ **The District of Wyoming accepts electronically filed documents. Can pro-se debtors file documents electronically?**
Due to original signature requirements per Rule 9011, the Court's electronic filing system is not available to pro se filers.
- ▶ **How long does it take for creditors to be notified a bankruptcy has been filed?**
7-10 days from filing.
- ▶ **Who has access to bankruptcy files?**
All court files are public record with few exceptions including social security numbers, sealed documents, and certain tax documents.

Discharges

- ▶ **What is a bankruptcy discharge?**
It releases the Debtor from personal liability for discharged debts. Thus, it prevents the creditors owed those debts from taking any action against the Debtor to collect the debts. Most, but not all, types of debts are discharged if they existed on the date the bankruptcy case was filed and were listed on the schedules. Bankruptcy law regarding the scope of a discharge is complex, and Debtors should consult competent legal counsel prior to filing.
- ▶ **How long does it take to get a discharge?**
Every case is different. It depends on the case, the creditors involved and the trustee. The case cannot be discharged until after the deadline for filing objections to the discharge has passed and all fees have been paid.
- ▶ **What Debts are non dischargeable?**
Generally, all debts listed on the petition are dischargeable. However, certain types of debt listed in 11 U.S.C. § 523 are not dischargeable. The non-dischargeable debts listed in § 523 include, but are not limited to:
 - a. Debts for most taxes;
 - b. Debts incurred to pay nondischargeable taxes;
 - c. Debts that are domestic support obligation;
 - d. Debts for most Student loans;
 - e. Debts for most fines, penalties, forfeitures, or criminal restitution obligations;

- f. Debts for personal injuries or death caused by the debtor's operation of a motor vehicle, vessel, or aircraft while intoxicated;
- g. Some debts which were not properly listed by the debtor;
- h. Debts that the bankruptcy court specifically has decided or will decide in a bankruptcy case are not discharged;
- i. Debts for which the debtor has given up the discharge protections by signing a reaffirmation agreement in compliance with the Bankruptcy Code requirements for reaffirmation of debts.
- j. Debts owed to certain pension, profit sharing, stock bonus, other retirement plans, or to the Thrift Savings Plan for the federal employees for certain types of loans from these plans.

This information is only a general summary of the bankruptcy discharge. There are exceptions to these general rules. Because the law is complicated, debtors may want to consult an attorney to determine the exact effect of the discharge in any case.

Under 11 U.S.C. § 1328(a) a chapter 13 discharge extends further.

▶ **Will all creditors be notified of discharge?**

All creditors who were listed in the schedules or added by amendment to the schedules will be notified.

▶ **How will I know when my debts have been discharged?**

Once all prerequisites have been met, and a discharge of debts is appropriate, the Court will enter a discharge order and will serve this order upon debtors and all creditors listed within the case. Along with the discharge debtors will receive an explanation of debts that are discharged and debts that are not discharged.

▶ **Can a discharge be denied?**

Yes.

▶ **What is the difference between a discharge being denied and a debt being declared nondischargeable?**

The court can deny the Debtor's discharge of all debts, or determine that a particular debt or debts are nondischargeable. If the court denies the discharge of all debts, then the Debtor will still be legally responsible for all the debts as if no bankruptcy petition had ever been filed. If only certain debts are ruled nondischargeable, the Debtor will still receive a discharge order. However, the Debtor will remain legally responsible for those nondischargeable debts.

▶ **Once the discharge has been received is the case complete?**

The case is not complete until the estate is administered by the case trustee and the case is closed by the court.

Appendix B:

Bankruptcy Terminology

341 meeting The meeting of creditors required by § 341 of the Bankruptcy Code at which the debtor is questioned under oath by creditors, a trustee, examiner, or the U.S. trustee about their financial affairs. Also called a **creditors' meeting**.

adversary proceeding A lawsuit arising in or related to a bankruptcy case that is commenced by filing a complaint with the court. A nonexclusive list of adversary proceedings is set forth in Fed. R. Bankr. P. 7001.

automatic stay An injunction that automatically stops lawsuits, foreclosures, garnishments, and all collection activity against the debtor the moment a bankruptcy petition is filed.

bankruptcy A legal procedure for dealing with debt problems of individuals and businesses; specifically, a case filed under one of the chapters of title 11 of the United States Code (the Bankruptcy Code).

Bankruptcy Code The informal name for title 11 of the United States Code (11 U.S.C. §§ 101-1330), the federal bankruptcy law.

bankruptcy estate All legal or equitable interests of the debtor in property at the time of the bankruptcy filing. (The estate includes all property in which the debtor has an interest, even if it is owned or held by another person.)

bankruptcy judge A judicial officer of the United States district court who is the court official with decision-making power over federal bankruptcy cases.

bankruptcy petition The document filed by the debtor (in a voluntary case) or by creditors (in an involuntary case) which opens the bankruptcy case. (There are official forms for bankruptcy petitions.)

bankruptcy trustee The representative of the bankruptcy estate who exercises statutory powers, principally for the benefit of the unsecured creditors, under the general supervision of the court and the direct supervision of the U.S. trustee or bankruptcy administrator. The trustee is a private individual or corporation appointed in all chapter 7, chapter 12, and chapter 13 cases and some chapter 11 cases. The trustee's responsibilities include reviewing the debtor's petition and schedules and bringing actions against creditors or the debtor to recover property of the bankruptcy estate. In chapter 7, the trustee liquidates property of the estate, and makes distributions to creditors. Trustees in chapter 12 and 13 have similar duties to a chapter 7 trustee and the additional responsibilities of overseeing the debtor's plan, receiving payments from debtors, and disbursing plan payments to creditors.

chapter 7 The chapter of the Bankruptcy Code providing for "liquidation" (*i.e.*, the sale of a debtor's nonexempt property and the distribution of the proceeds to creditors).

chapter 9 The chapter of the Bankruptcy Code providing for reorganization of municipalities (which includes cities and towns, as well as villages, counties, taxing districts, municipal utilities, and school districts).

chapter 11 The chapter of the Bankruptcy Code providing (generally) for reorganization, usually involving a corporation or partnership. (A chapter 11 debtor usually proposes a plan of reorganization to keep its business alive and pay creditors over time. Businesses or individuals may seek relief in chapter 11.)

chapter 12 The chapter of the Bankruptcy Code providing for adjustment of debts of a “family farmer,” or a “family fisherman” as those terms are defined in the Bankruptcy Code.

chapter 13 The chapter of the Bankruptcy Code providing for adjustment of debts of an individual with regular income. (Chapter 13 allows a debtor to keep property and pay debts over time, usually three to five years.)

chapter 15 The chapter of the Bankruptcy Code dealing with cases of cross-border insolvency.

claim A creditor’s assertion of a right to payment from the debtor or the debtor’s property.

confirmation Bankruptcy judge’s approval of a plan of reorganization or liquidation in chapter 11, or payment plan in chapter 12 or 13.

consumer debtor A debtor whose debts are primarily consumer debts.

consumer debts Debts incurred for personal, as opposed to business, needs.

creditor One to whom the debtor owes money or who claims to be owed money by the debtor.

credit counseling Generally refers to two events in individual bankruptcy cases: the “individual or group briefing” from a nonprofit budget and credit counseling agency that individual debtors must attend prior to filing under any chapter of the Bankruptcy Code.

creditors’ meeting *see* **341 meeting**

current monthly income The average monthly income received by the debtor over the six calendar months before commencement of the bankruptcy case, including regular contributions to household expenses from nondebtors and income from the debtor’s spouse if the petition is a joint petition, but not including social security income and certain other payments made because the debtor is the victim of certain crimes. 11 U.S.C. § 101(10A).

debtor A person who has filed a petition for relief under the Bankruptcy Code.

debtor education/financial management The “instructional course in personal financial management” in chapters 7 and 13 that an individual debtor must complete before a discharge is entered. There are exceptions to both requirements for certain categories of debtors, exigent circumstances, or if the U.S. trustee or bankruptcy administrator have determined that there are insufficient approved credit counseling agencies available to provide the necessary counseling.

defendant An individual (or business) against whom a lawsuit is filed.

discharge A release of a debtor from personal liability for certain dischargeable debts set forth in the Bankruptcy Code. (A discharge releases a debtor from personal liability for certain debts known as dischargeable debts and prevents the creditors owed those debts from taking any action against the debtor to collect the debts. The discharge also prohibits creditors from communicating with the debtor regarding the debt, including telephone calls, letters, and personal contact.)

dischargeable debt A debt for which the Bankruptcy Code allows the debtor’s personal liability to be eliminated.

disclosure statement A written document prepared by a chapter 11 debtor or other plan proponent designed to provide “adequate information” to creditors to enable them to evaluate the chapter 11 plan of reorganization.

equity The value of a debtor’s interest in property that remains after liens and other creditors’ interests are considered. (Example: If a house valued at \$100,000 is subject to a \$80,000 mortgage, there is \$20,000 of equity.)

exemptions, exempt property Certain property owned by an individual debtor that the Bankruptcy Code or applicable state law permits the debtor to keep from unsecured creditors. For example, in some states the debtor may be able to exempt all or a portion of the equity in the debtor’s primary residence (homestead exemption), or some or all “tools of the trade” used by the debtor to make a living (*i.e.*, auto tools for an auto mechanic or dental tools for a dentist). The availability and amount of property the debtor may exempt depends on the state the debtor lives in.

ex parte Except as permitted by law, debtors, all parties in interest, or employees of a party in interest shall refrain from ex parte meetings and communications with the judge/court concerning matters affecting a particular case or proceeding per Federal Rules of Bankruptcy Procedure 9003(a).

family farmer or family fisherman An individual, individual and spouse, corporation, or partnership engaged in a farming or fishing operation that meets certain debt limits and other statutory criteria for filing a petition under chapter 12.

fraudulent transfer A transfer of a debtor’s property made with intent to defraud or for which the debtor receives less than the transferred property’s value.

fresh start The characterization of a debtor’s status after bankruptcy, *i.e.*, free of most debts. (Giving debtors a fresh start is one purpose of the Bankruptcy Code.)

insider (of an individual debtor) Any relative of the debtor or of a general partner of the debtor; partnership in which the debtor is a general partner; general partner of the debtor; or a corporation of which the debtor is a director, officer, or person in control.

insider (of a corporate debtor) A director, officer, or person in control of the debtor; a partnership in which the debtor is a general partner; a general partner of the debtor; or a relative of a general partner, director, officer, or person in control of the debtor.

joint petition One bankruptcy petition filed by a husband and wife together.

lien The right to take and hold or sell the property of a debtor as security or payment for a debt or duty.

liquidation A sale of a debtor’s property with the proceeds to be used for the benefit of creditors.

liquidated claim A creditor’s claim for a fixed amount of money.

means test § 707(b)(2) of the Bankruptcy Code applies a “means test” to determine whether an individual debtor’s chapter 7 filing is presumed to be an abuse of the Bankruptcy Code requiring dismissal or conversion of the case (generally to chapter 13). Abuse is presumed if the debtor’s aggregate current monthly income (see definition above) over 5 years, net of certain statutorily allowed expenses is more than (i) \$10,000, or (ii) 25% of the debtor’s nonpriority unsecured debt, as long as that amount is at least \$6,000. The debtor may rebut a presumption of abuse only by a showing of special circumstances that justify additional expenses or adjustments of current monthly income.

motion to lift the automatic stay A request by a creditor to allow the creditor to take action against the debtor or the debtor's property that would otherwise be prohibited by the automatic stay.

no-asset case A chapter 7 case where there are no assets available to satisfy any portion of the creditors' unsecured claims.

nondischargeable debt A debt that cannot be eliminated in bankruptcy. Examples include a home mortgage, debts for alimony or child support, certain taxes, debts for most government funded or guaranteed educational loans or benefit overpayments, debts arising from death or personal injury caused by driving while intoxicated or under the influence of drugs, and debts for restitution or a criminal fine included in a sentence on the debtor's conviction of a crime. Some debts, such as debts for money or property obtained by false pretenses and debts for fraud or defalcation while acting in a fiduciary capacity may be declared nondischargeable only if a creditor timely files and prevails in a nondischargeability action.

objection to dischargeability A trustee's or creditor's objection to the debtor being released from personal liability for certain dischargeable debts. Common reasons include allegations that the debt to be discharged was incurred by false pretenses or that debt arose because of the debtor's fraud while acting as a fiduciary.

objection to exemptions A trustee's or creditor's objection to the debtor's attempt to claim certain property as exempt from liquidation by the trustee to creditors.

party in interest A party who has standing to be heard by the court in a matter to be decided in the bankruptcy case. The debtor, the U.S. trustee or bankruptcy administrator, the case trustee and creditors are parties in interest for most matters.

petition preparer A business not authorized to practice law that prepares bankruptcy petitions.

plan A debtor's detailed description of how the debtor proposes to pay creditors' claims over a fixed period of time.

plaintiff A person or business that files a formal complaint with the court.

postpetition transfer A transfer of the debtor's property made after the commencement of the case.

preference or preferential debt payment A debt payment made to a creditor in the 90-day period before a debtor files bankruptcy (or within one year if the creditor was an insider) that gives the creditor more than the creditor would receive in the debtor's chapter 7 case.

priority claim An unsecured claim that is entitled to be paid ahead of other unsecured claims that are not entitled to priority status. Priority refers to the order in which these unsecured claims are to be paid.

proof of claim A written statement and verifying documentation filed by a creditor that describes the reason the debtor owes the creditor money. (There is an official form for this purpose.)

property of the estate All legal or equitable interests of the debtor in property as of the commencement of the case.

reaffirmation agreement An agreement by a chapter 7 debtor to continue paying a dischargeable debt (such as an auto loan) after the bankruptcy, usually for the purpose of keeping collateral (*i.e.* the car) that would otherwise be subject to repossession.

secured creditor A creditor holding a claim against the debtor who has the right to take and hold or sell certain property of the debtor in satisfaction of some or all of the claim.

secured debt Debt backed by a mortgage, pledge of collateral, or other lien; debt for which the creditor has the right to pursue specific pledged property upon default. Examples include home mortgages, auto loans, and tax liens.

schedules Detailed lists filed by the debtor along with (or shortly after filing) the petition showing the debtor's assets, liabilities, and other financial information. (There are official forms available to debtors.)

small business case A special type of chapter 11 case in which there is no creditors' committee (or the creditors' committee is deemed inactive by the court) and in which the debtor is subject to more oversight by the U.S. trustee than other chapter 11 debtors. The Bankruptcy Code contains certain provisions designed to reduce the time a small business debtor is in bankruptcy.

statement of financial affairs A series of questions the debtor must answer in writing concerning sources of income, transfers of property, lawsuits by creditors, etc. (There is an official form a debtor must use.)

statement of intention A declaration made by a chapter 7 debtor concerning plans for dealing with consumer debts that are secured by property of the estate.

transfer Any mode or means by which a debtor disposes of or parts with the debtor's property.

U.S. Trustee An officer of the Justice Department responsible for supervising the administration of bankruptcy cases, estates, and trustees; monitoring plans and disclosure statements; monitoring creditors' committees; monitoring fee applications; and performing other statutory duties.

undersecured claim A debt secured by property that is worth less than the full amount of the debt.

unliquidated claim A claim for which a specific value has not been determined.

unscheduled debt A debt that should have been listed by the debtor in the schedules filed with the court but was not. (Depending on the circumstances, an unscheduled debt may or may not be discharged.)

unsecured claim A claim or debt for which a creditor holds no special assurance of payment, such as a mortgage or lien; a debt for which credit was extended based solely upon the creditor's assessment of the debtor's future ability to pay.

voluntary transfer A transfer of a debtor's property with the debtor's consent.